

REMARKS

Claims 2-4 are all the claims pending in the application. By this Amendment, Applicants (1) rewrite claims 2 and 3 in independent form, (2) amends claim 4 to depend from claim 2, and (3) cancel claims 1 and 5-10. Applicants respectfully submit that the requested amendments should be entered because they merely adopt the Examiner's suggestions (with respect to rewritten claims 2 and 3), and only require a cursory review by the Examiner (with respect to claims 4-10).¹

I. Examiner Interview:

Applicant thanks the Examiner for the courtesies extended during the in person interview conducted on September 23 2003. During the interview, Applicants discussed the "automatic exchanging means" limitation recited in independent claim 1, and asserted that this limitation (in combination with the other limitations defined by claim 1) is not taught or suggested by U.S. 6,153,101 to Schäfer et al. ("Schäfer"). A proposed amendment to claim 1 was also discussed. The above description, which is believed to satisfy the requirements of MPEP 713.04, is intended as an explanation only and is not intended to limit the invention defined by the claims of the present application.

¹ MPEP714.13.

II. Election/Restriction:

Applicants cancel claims 6-10, without prejudice or disclaimer, for being directed to a non-elected invention.

III. Allowable Subject Matter:

The Examiner indicates that claims 2 and 3 would be allowable if rewritten in independent form. Applicants rewrite claims 2 and 3 to capture this subject matter. The Examiner should allow claims 2 and 3 in the next Patent Office paper.

Claim 4 is also amended to depend from allowable claim 2. Thus, the Examiner should allow claim 4 at least by virtue of its dependency.

IV. Claim Rejection on Prior Art Grounds:

The Examiner continues to reject claims 1, 4, and 5 under 35 U.S.C. § 102(e) as being anticipated by Schäfer. Applicants respectfully disagree for the following five reasons:

- (1) Schäfer does not include any element that is comparable to the “automatic exchange means” defined by claim 1,
- (2) the rejection position is legally incorrect on its face to the extent that the rejection grounds expressly recognizes that Schäfer’s constituent elements do not perform the *identical function* set forth in the “automatic exchanging means” limitation,²
- (3) even if identity of function were present, the rejection position would still be incorrect because the allegations concerning structural equivalence fail to follow the straightforward guidance indicated in MPEP 2183 (A),
- (4) the rejection grounds indicate that claim 1 only requires a capability of replacing used ion exchanger with virgin ion

² See Office Action, p. 3, l. 4-16.

exchanger, which is simply incorrect because claim 1 is written in a *mean plus function* format, and

- (5) the rejection grounds indicate that Schäfer's system is "inherently capable" of replacing used ion exchanger with virgin ion exchanger,³ but they fail to provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art.⁴

Notwithstanding, and as a path of least resistance, Applicants cancel claim 1, thereby rendering the raised rejection moot.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

³ Office Action, p. 3, l. 9-14.

⁴ MPEP 2112.

AMENDMENT UNDER 37 C.F.R. § 1.116
U.S. Appln. No. 09/918,498 (Q65700)

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

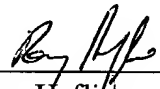
Respectfully submitted,

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE

23373

CUSTOMER NUMBER



Ray Heflin
Registration No. 41,060

Date: September 30, 2003